

FISCAL NOTE

SB 2869

March 21, 2002

SUMMARY OF BILL:

- Removes all sales tax exemptions outlined in TCA Title 67, Chapter 6, Part 3 except the following:
 - Sales to the federal government.
 - Sales to religious, educational, and charitable institutions and energy resource recovery facilities.
 - Sales paid for with food stamps.
 - Sales paid for with vouchers from special supplemental food program for women, infants and children.
- Exempts from sales tax:
 - Any sale or use of any article, manufactured of the produce of this State exempt from taxation pursuant to Section 30 of Article II of the Constitution of Tennessee.
 - Any sale or use which would otherwise be taxable pursuant to the provisions of this chapter but which would impose a tax that is invalid either under the commerce clause or the due process clause of the Constitution of the United States.
- Imposes the sales tax on the entire amount of farm equipment and machinery, as defined in TCA 67-6-102(9). Under current law, only the first \$250 is subject to the tax.
- Imposes the sales tax on the entire amount of machinery, as defined in TCA 67-6-102(13)(B) the cost of which, for any such single article, exceeds one thousand dollars (\$1,000), which is necessary to and primarily for remanufacturing industrial machinery when such utilization is by one whose principal business is that of remanufacturing industrial machinery. Under current law, only the first \$1,000 is subject to the tax.
- Authorizes the department to enter into a reciprocal agreement with the comparable department of another state to furnish records concerning purchases made by citizens of the other state from a dealer in this state where the dealer collects neither a sales nor a use tax on such sales; provided, that the other state agrees to furnish the same records to this state. Under current law, the threshold for this provision to apply is on sales is in excess of \$500.
- Eliminates reduced rates for industrial machinery charged in TCA 67-6-206, which includes:
 - tax at the rate of 1% imposed with respect to water when sold to or used by manufacturers.
 - tax at the rate of 1.5% imposed with respect to gas, electricity, fuel oil, coal and other energy fuels when sold to or used by manufacturers.

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- Eliminates the sales tax exemption for farm equipment and machinery, outlined in TCA 67-6-207.
- Deletes certain sales tax exemptions outlined in TCA 67-6-209 (d), (e), (f), and (g).
- Imposes the full sales tax rate on non-material costs of manufactured homes. Under current law, such costs are taxed at 1/2 the normal sales tax rate.
- Imposes the full sales tax rate on aviation fuel that is actually used in the operation of airplane or aircraft motors. Under current law, the tax rate is 4.5%.
- Imposes the full sales tax rate on sales of tangible personal property to common carriers for use outside state, which is outlined in TCA 67-6-2189. Under current law, the tax rate is 3.75%.
- Imposes the full sales tax rate on qualified, new or expanded headquarters facilities, as outlined in TCA 67-6-224. Under current law, the tax rate is 0.5%.
- Imposes sales tax at the rate of 4.375%, effective July 1, 2002, on all currently untaxed services.
- Provides that health care service providers shall receive a credit of 50% of the taxes actually collected by them. The remaining 50% of the taxes actually collected by health care service providers shall be deposited in a fund within the general fund for the purpose of making essential access provider payments to hospitals, community mental health centers, and local public health centers in such amounts as may be appropriated in the general appropriations bill.
- Lowers the state sales tax rate, effective July 1, 2002, from 6% to 4.375%.
- Deletes local option sales tax, effective July 1, 2002, and holds local governments harmless for the change.
- Repeals hall income tax for tax years beginning on or after January 1, 2002, and holds local governments harmless for the change.
- Creates the Tennessee Flat Tax Law of 2002.
 - Imposes a flat tax as follows:
 - For tax years beginning on or after January 1, 2002, the tax rate of 1% on Tennessee Adjusted Gross Income.
 - For tax years beginning on or after January 1, 2003, the tax rate of 2% on Tennessee Adjusted Gross Income.
 - Exemption Levels are as follows:
 - Single Filer \$12,000
 - Head of Household \$17,640
 - Married Filing Jointly \$24,000
 - The return filing and withholding requirements shall not apply, and no tax shall be levied, on any person that is not required by federal law, by reason of the amount of its federal adjusted gross income, to file a federal tax return.
 - Requires each employer, maintaining an office or transacting business within this state and making payment of any wages taxable under this part to a resident or nonresident individual, shall deduct and withhold from such wages for each payroll period a tax computed in such manner

as to result in withholding from the employee's wage during each calendar year an amount substantially equivalent to the tax reasonably estimated to be due from the employee.

- Provides a credit of the Occupational Privilege Tax against any income tax liability.
- Exempts subchapter S corporations, Limited Partnerships, LLC's, and LLP's from excise tax to eliminate the double taxation that would occur with implementation of Flat Income Tax.
- Eliminates the franchise tax stock-held deduction provision outlined in TCA 67-4-2107.
- Allows any person required to register for withholding may bring an action for declaratory judgment concerning the constitutionality or validity of the income tax levied in this bill in the Chancery Court of Davidson County. Appeal from such action shall be taken directly to the supreme court.
- Reduces the refund period for franchise and excise taxes from 3 years to 1 year.
- Amends TCA Title 9, Chapter 4, Part 52 that states: in no fiscal year shall appropriations of general expenditures from state tax revenues received in such year exceed 6% of the state's economy.
- Defines general expenditures as appropriations of amounts collected from state taxes identified pursuant to TCA 9-4-5202(b), to the debt service fund, the capital projects fund, the highway fund, the education trust fund and the general fund.
 - Specifies the state's economy shall be measured as personal income as defined in TCA 9-4-5201(b).
 - Provides a rebate mechanism if appropriations exceed the 6% level as outlined above.

ESTIMATED FISCAL IMPACT:

Increase State Revenues - Net Impact - \$663,287,222

**Increase State Expenditures - Exceeds \$30,000,000 Recurring
Exceeds \$25,000,000 One-Time**

CERTIFICATION:

This is to duly certify that the information contained herein is true and correct to the best of my knowledge.



James A. Davenport, Executive Director